

## FARNEY DANIELS PC

*Austin/Georgetown  
Silicon Valley*

159 20<sup>th</sup> Street, #2B-41  
Brooklyn, New York 11232  
512-582-2828

www.farneydaniels.com

*Minneapolis  
New York*

February 13, 2015

### VIA CM/ECF

The Honorable Roslynn R. Mauskopf  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Wireless Media Innovations, LLC v. Red Hook Container Terminal, LLC*;  
Civil Action No. 14-cv-4667-RRM-CLP

### LETTER REGARDING TIDEWORKS' PROPOSED MOTION

Dear Judge Mauskopf:

This letter is to advise the Court of Plaintiff Wireless Media Innovations, LLC's ("WMI") position concerning Third-Party Defendant Tideworks Technology, Inc.'s ("Tideworks") proposed motion to transfer, or in the alternative, to dismiss the third-party complaint.

The claims giving rise to the proposed motion to transfer appear to concern a contract dispute between Red Hook Container Terminal, LLC ("RHCT") and Tideworks. WMI is not privy to the terms of the contract alleged by RHCT to be breached. As a result, WMI has no position on whether a transfer would be appropriate or a dismissal or stay would be warranted. WMI reserves the right to file a brief in support of or against Tideworks' proposed motion in the event that the motion may include sufficient evidence to allow WMI to form an educated opinion on the issue.

In any event, WMI is hopeful that this tangential dispute will not continue to interfere with WMI's pursuit of its patent rights in the suit it filed against RHCT. To date, RHCT has refused to conduct a Rule 26 conference with WMI, despite WMI's request for such a conference. On January 23, 2015, counsel for WMI provided an initial draft of a case management report to counsel for RHCT, informing RHCT of WMI's initial positions on scheduling and discovery limitations, and requesting that RHCT respond with its availability for a conference under Fed.R.Civ.P. 26(f). For weeks, however, RHCT would not provide Wireless Media with a counter-draft or a time for Rule 26(f) conference. On February 12, 2015, RHCT's counsel emailed WMI's counsel, stating that because of the current dispute between RHCT and

February 13, 2015

Page 2

Tideworks regarding “who will be handling the defense [of this case], it is premature to discuss a case management order.” WMI disagrees. The resolution of the patent litigation dispute between WMI and RHCT is not dependent on the outcome of the contract dispute between RHCT and Tideworks, and the existence of third-party claim should not prejudice WMI’s ability to pursue its patent infringement claims expeditiously. Therefore, WMI submits herewith its proposed case management plan for the Court to consider during the Rule 16 conference set for February 19, 2015.

Respectfully submitted,

/s/ Michael A. Siem

Michael A. Siem (NY Bar No. 3910668)  
FARNEY DANIELS PC  
159 20th Street, Suite 2B-41  
Brooklyn, New York 11232  
Telephone: (512) 582-2828  
Email: msiem@farneydaniels.com

Steven R. Daniels (admitted *pro hac vice*)  
FARNEY DANIELS PC  
800 S. Austin Avenue, Ste. 200  
Georgetown, TX 78626  
Telephone: (512) 582-2828  
Facsimile: (512) 582-2829  
Email: sdaniels@farneydaniels.com

Attorneys for Plaintiff  
Wireless Media Innovations, LLC